



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION

ORDER BY CONSENT ISSUED TO

COYNE & DELANY COMPANY

EPA HAZARDOUS WASTE ID No. VAD 046 992 343

SECTION A: Purpose

This is a Consent Order issued under the authority of Section 10.1-1455 of the Code of Virginia between the Virginia Waste Management Board and Coyne & Delany Company to resolve certain violations of the Virginia Waste Management Act and the Virginia Hazardous Waste Management Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Order" means this document, termed a Consent Order under the authority of the Virginia Waste Management Law.
3. "Waste Board" means the Virginia Waste Management Board, a permanent Citizens' Board of the Commonwealth of Virginia described in Va. Code §§ 10.1-1401 and 10.1-1184.
4. "C&D" or "the Company" means Coyne & Delany Company, certified to do business in Virginia and its affiliates, partners, subsidiaries and parents.

5. "DEQ" means the Virginia Department of Environmental Quality, an independent administrative agency within the executive branch of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
6. "VRO" means DEQ's Valley Regional Office, located in Harrisonburg, Virginia.
7. "Director" means the Director of DEQ, whose powers and duties are described in Va. Code § 10.1-1185.
8. "VHWMR" means the Waste Board's Hazardous Waste Management Regulations, 9 VAC 20-60-12 et seq., which incorporate text from Title 40 of the Code of Federal Regulations (CFR).
9. "Facility" means C&D's manufacturing operations located at 1565 Avon Street Extended, Charlottesville, Virginia.

SECTION C: Findings of Facts and Conclusions of Law

1. C&D, a manufacturer of flush valves, conducts electroplating as part of its manufacturing processes at its Facility.
2. On November 2, 2006 staff from DEQ's waste compliance program conducted a hazardous waste compliance inspection of the Facility. During the inspection, DEQ staff made the following observations concerning the Facility:
 - a. C&D is a generator of hazardous waste as defined under 40 CFR 260.10. C&D operates under EPA Hazardous Waste ID No. VAD 046 992 343. Through its electroplating operations, the Facility generates listed hazardous waste, as defined under 40 CR 261.31, in the form of nickel and chromium waste sludge (Hazardous Waste ID No. F006). The Facility also generates universal waste lamps as defined under 40 CFR 260.10;
 - b. The Facility routinely generates approximately 17,000 lbs of F006 hazardous waste every 90 days (greater than 5,600 lbs per month); and,
 - c. Pursuant to 40 CFR 260, as incorporated under 9 VAC 20-60-260 of the VHWMR, the Facility is a "large quantity generator" of hazardous waste in that it generates more than 1,000 kg (2,200 lbs) of hazardous waste per month; accordingly, the Facility is subject to regulation under the VHWMR as well as under certain provisions contained in 40 CFR Parts 262, 264 and 265, as incorporated under 9 VAC 20-60-12 et seq. of the VHWMR.

Based on these observations, staff evaluated the Facility for compliance with the provisions of the VHWMR applicable to large quantity generators of hazardous waste.

3. During the November 2, 2006 inspection of the Facility, staff documented violations of 40 CFR and the VHWMR as listed below. These violations were also cited in DEQ's November 2, 2006 Inspection Report and in Notice of Violation No. WS-06-011-VRO-011 ("NOV"), both of which were issued to the Facility on January 31, 2007:
- a. Failure to pay the applicable annual hazardous waste generator fee for the years 2004, 2005 & 2006 as required by 9 VAC 20-60-1283 of the VHWMR;
 - b. Failure to notify DEQ of its status as a large quantity generator of hazardous waste as required by 9 VAC 20-60-315 of the VHWMR;
 - c. Failure to prepare and submit a biennial report for odd calendar years and retain a copy of the report for three years from the due date of the report as required by 40 CFR 262.40(b), as incorporated by 9 VAC 20-60-262 of the VHWMR;
 - d. Failure to have a written training program, conduct annual refresher training, and train employees on waste management procedures and emergency response procedures as required by 40 CFR 265.16(a)(1), as incorporated by 9 VAC 20-60-265 of the VHWMR;
 - e. Failure to provide a job title and description for each employee who manages hazardous waste as required by 40 CFR 265.16(d)(1) and (2), as incorporated by 9 VAC 20-60-265 of the VHWMR;
 - f. Failure to provide employees with training conducted by a person trained in hazardous waste management procedures as required by 40 CFR 265.16(a)(2), as incorporated by 9 VAC 20-60-265 of the VHWMR;
 - g. Failure to document training for all employees who begin in a waste management position within six months of starting in the position as required by 40 CFR 265.16(b), as incorporated by 9 VAC 20-60-265 of the VHWMR;
 - h. Failure to document the testing/maintenance of emergency equipment as required by 40 CFR 265.33, as incorporated by 9 VAC 20-60-265 of the VHWMR;
 - i. Failure to maintain a Contingency Plan which: (i) includes updated information; (ii) has been submitted to local emergency officials and hospitals; (iii) includes current arrangements with emergency officials and hazardous waste contractors; (iv) includes a plan to ensure emergency equipment is fit for use; and, (v), includes a plan to assess possible hazards upon release of hazardous waste as required by 40 CFR 265.50 through 265.56, as incorporated by 9 VAC 20-60-265 of the VHWMR;

- j. Failure to familiarize local and state emergency response authorities and the local hospital of the hazards related to the waste the Facility generates as required by 40 CFR 265.37, as incorporated by 9 VAC 20-60-265 of the VHWMR; and,
 - k. Failure to manage universal waste lamps in containers that are structurally sound and adequate to prevent breakage as required by 40 CFR 273.13(d), as incorporated by 9 VAC 20-60-273 of the VHWMR and failure to label such containers with the words "Universal Waste Lamps" or "Waste Lamps" and date the containers to demonstrate the length of storage as required by 40 CFR 273.14(a) and 273.15(a), as incorporated by 9 VAC 20-60-273 of the VHWMR.
- 4. On March 1, 2007, representatives of C&D and DEQ met in an informal enforcement conference at DEQ-VRO which included a review of all violations cited in the NOV and under paragraph 3 above. At the close of the conference, C&D agreed to submit a plan and schedule of actions to DEQ to address the violations and return the Facility to compliance with 40 CFR and the VHWMR.
 - 5. By letter dated March 12, 2007, JRW & Associates, consultant to C&D, submitted C&D's plan and schedule of corrective action. This plan and schedule has been incorporated into Appendix A of the Order.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455, orders C&D, and C&D voluntarily agrees to perform the actions described in Appendix A of this Order. Additionally, the Board orders C&D, and C&D voluntarily agrees, to pay a civil charge of **\$14,840** within 30 days of the effective date of this Order in settlement of the violations cited in this Order. The effective date of this Order shall be the date the Order is signed by VRO's Regional Director, after required notice and approval by the Board. Payment shall be made by check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

The payment shall include C&D's Federal ID number and shall state that it is being tendered in payment of the civil charge assessed under this Order.

SECTION E: Administrative Provisions

- 1. This Order only addresses and resolves those apparent violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking


subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

2. For purposes of this Order and subsequent actions with respect to this Order, C&D admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
3. C&D declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any and all other facts and conclusions of law, including any action taken by the Board to enforce this Order.
4. Failure by C&D to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
5. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
6. C&D shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. C&D shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. C&D shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

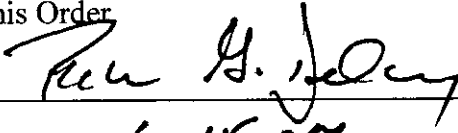
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which C&D intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

7. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
8. This Order shall become effective upon execution by both the Director or his designee and C&D. Notwithstanding the foregoing, C&D agrees to be bound by any compliance date which precedes the effective date of this Order.
9. This Order shall continue in effect until:
 - a. C&D petitions the Director or his designee to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order. The Director's determination that C&D has satisfied all the Requirements of the Order is a case decision within the meaning of the Virginia Administrative Process Act; or
 - b. The Director or the Board terminates this Order in his or its own discretion upon 30 days' written notice to C&D.
10. By appropriate signature below, C&D voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 24 day of July, 2007.


Amy Thatcher Owens, Regional Director
Valley Regional Office
Department of Environmental Quality

C&D voluntarily agrees to the issuance of this Order

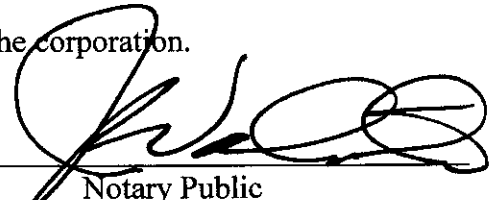
By: 
Date: 6-15-07

Commonwealth of Virginia

City/County of CHARLOTTESVILLE

The foregoing document was signed and acknowledged before me this 15 day of
JUNE, 2007, by PETER G. DELANY, who is
(name)

Vice President of C&D on behalf of the corporation.
(title)


Notary Public

My commission expires: 7-31-09

**APPENDIX A
SCHEDULE OF COMPLIANCE**

COYNE & DELANY COMPANY

EPA HAZARDOUS WASTE ID No. VAD 046 992 343

1. **By August 1, 2007**, C&D shall remit its annual hazardous waste generator fee to DEQ for calendar years 2004, 2005 & 2006.
2. **By July 1, 2007**, C&D shall notify DEQ of its hazardous waste generator status by submittal of DEQ Form 8700-12.
3. **By July 1, 2007**, C&D shall submit to DEQ its Biennial Report for calendar year 2005 by submittal of DEQ Form 8700-13A.
4. **By October 1, 2007**, C&D shall submit documentation to DEQ-VRO demonstrating that C&D has: (i) fully implemented management of universal waste lamps in containers that are structurally sound and adequate to prevent breakage; (ii) labeled such containers with the words "Universal Waste Lamps" or "Waste Lamps"; and, (iii) dated the containers to demonstrate the length of storage.
5. **By October 1, 2007**, C&D shall update the Facility's Contingency Plan and submit a copy of the plan to DEQ-VRO. The updated plan shall: (i) be submitted to local emergency officials and hospitals; (ii) include current arrangements with emergency officials and hazardous waste contractors; (iii) include a plan to ensure emergency equipment is fit for use; and, (iv), include a plan to assess possible hazards upon release of hazardous waste. The submittal to DEQ-VRO shall include documentation that the submittal required under 5(i) above has also been made.
6. **By November 1, 2007**, C&D shall submit documentation to DEQ-VRO demonstrating that C&D has a person trained in hazardous waste management procedures as required by 40 CFR 265.16(a)(2).
7. **By December 1, 2007**, C&D shall submit documentation to DEQ-VRO demonstrating that C&D has:
 - a. instructed employees on management procedures and emergency response procedures in accordance with a written training program;
 - b. provided notification to local and state emergency response officials and hospitals of the potential hazards related to the type of waste generated;
 - c. provided a job title and description for each employee whose position at the facility is related to hazardous waste management;

- d. trained all employees that are in a waste management position; and,
 - e. maintained its emergency equipment.
8. C&D shall submit copies of all Uniform Hazardous Waste Manifests to DEQ-VRO in accordance with the following schedule:
- a. for calendar year 2007 **by January 15, 2008**; and,
 - b. for calendar year 2008 **by January 15, 2009**.